

**REMARKS**

As noted above, the Applicant appreciates the Examiner's thorough examination of the subject application. Claims 1-26 are pending in the application, and of these claims 15-26 have been withdrawn. In the non-final Office Action mailed 04 January 2010, claims 1-14 were rejected on multiple grounds, as described in further detail below.

Claims 1, 4-7, and 11 are amended herein. No new matter has been added.

Reconsideration and further examination of the subject application are respectfully requested in view of the foregoing amendments and the following remarks.

***Claim Rejections – 35 U.S.C. § 112***

Concerning item 5-10 of the Office Action, claims 1, 4, 6, 10, and 12-14 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject which the Applicant regards as the invention.

More specifically, regarding claims 1 and 4, the Office Action stated that the limitation "the provision of the good or service" does not have antecedent basis. Applicant traverses this statement, and respectfully submits that antecedent basis for the noted limitation is actually present in claim 1. In particular, claim 1 recites, "entering into an agreement with the commercial provider to provide a good or service to a potential customer ..." (emphasis added). Furthermore, the Office Action stated that the recitation of "if applicable" in claim 1 implied that the scope of the related limitation was unclear. In response, the phrase "if applicable" has been canceled from claim 1, as well as claim 7.

Regarding claim 6, the Office Action stated that antecedent basis did not exist for the limitation "with the EFT terminal." In response, claim 6 is amended herein to recite, among other things, "wherein the terminal device is the EFT terminal." Thus, the issue of antecedent basis is believed to be overcome.

Regarding claim 10, the Office Action stated that antecedent basis did not exist for the limitation "the business broker." In response, claim 10 is amended herein to change the definite article preceding "business broker" to an indefinite article. Thus, the issue of antecedent basis is believed to be overcome.

Regarding claims 12-14, the Office Action stated that antecedent basis did not exist for the limitation "the prescribed proportion." In response, claims 5, 7, and 11 have been amended to recite, inter alia, claims 2 or 4. As claims 2 and 4 provide antecedent basis for the limitation "the prescribed proportion, the issue of issue of antecedent basis is believed to be overcome.

### ***Claim Rejections – 35 U.S.C. § 102***

Concerning items 11-12 of the Office Action, claims 1, 4-6, 11, 12, and 14 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,609,113 to O'Leary et al. (O'Leary). Applicant respectfully disagrees with the anticipation rejections to the claims and submits that O'Leary fails to disclose or teach all the features recited in the claims. The differences between the claimed invention and O'Leary will be explained below.

An embodiment of the present invention will be explained with reference to FIG. 1. As can be seen from the figure, there is provided a business broker 13 electronically transacting a trade between a commercial provider 23 and a customer of a merchant 17.

For example, the business broker 13 markets the business system 11 to prospective commercial providers 23 who provide goods and/or services ancillary to the goods or services provided by merchants 17 who utilize, e.g., the EFT terminals 19. Examples of these ancillary services include the provision of tickets to particular entertainment venues, lottery tickets, government and utility bill paying services, vouchers, etc. Commercial providers 23 who agree to be part of the business system enter into a contract with the business broker 13 to provide their respective goods and/or services through the EFT terminals 19 of the business broker's 13 customer base of terminal sponsors (see page 15, lines 6 to 11 of the present specification).

The business broker 13 also markets the goods and/or services of these commercial providers 23 to its customer base of terminal sponsors. Terminal sponsors who agree to be part of the business system enter into a contract with the business broker 13 to allow them to offer goods and/or services of commercial providers 23 to customers through their EFT terminals 19 (see page 15, lines 16 to 25 of the present specification).

In addition, once payment for the product or service is made, the commercial provider 23 pays a commission to the business broker 13. The business broker 13 then proceeds to pay a commission to the merchant 17, whose customer 21 purchased the particular good and/or service. The business broker 13 may, if appropriate, also pay a commission to the terminal sponsor, whose EFT terminal 19 and payment system was used to enable the transaction (page 16, line 21 to page 17, line 5).

Accordingly, claim 1 recites:

A method for electronically transacting a trade between a commercial provider and a customer of a merchant, and for electronically paying all of the participants involved with enabling the transaction from the payment made by the customer in consideration of the trade, the method comprising:

- entering into an agreement with the commercial provider to provide a good or service to a potential customer of the merchant for valuable or other consideration;
- entering into an agreement with the merchant to offer the good or service of the commercial provider to its customers for valuable or other consideration;
- electronically transacting with the customer of the merchant the provision of the good or service of the commercial provider to the customer;
- using an electronic payment system to handle payment of a good or service of the commercial provider purchased by a customer of the merchant;

- electronically authorizing the provision of the good or service of the commercial provider upon confirmation of payment by the electronic payment system;
  - electronically distributing the valuable consideration in respect of the payment to the commercial provider in accordance with the agreement made with the commercial provider; and
  - electronically distributing the valuable consideration in respect of the payment to the merchant in accordance with the agreement made with the merchant.
- Applicant submits that O'Leary neither discloses the above-described embodiment of the present invention nor the claimed invention.

In particular, O'Leary fails to disclose or teach a system or a method for transacting a trade between a commercial provider and a customer of a merchant, and for handling the associated payment for the good and/or service. O'Leary merely describes the use of a PPP enhanced Wallet to fund the user's account, shop on the web, etc. For example, O'Leary describes how a user wishing to shop on the internet would activate the PPP enhanced Wallet 215 icon from their Browser. When the user has found and selected an item for purchase from the merchant's website 255, the merchant's website 255 recognizes the user as a PPP enhanced Wallet 215 customer. In response to this recognition, all of the purchase fields (shipping address, name, etc.) required by the merchant's website 255 are automatically populated from the PPP enhanced Wallet 215 (see col. 15, lines 19 to 65 of O'Leary).

Therefore, O'Leary merely discloses a system and a method for a user to pay a merchant through the use of the PPP enhanced Wallet 215. However, according to the present invention, there is at least an additional party, being the commercial provider 23. That is, O'Leary merely deals with a customer and a merchant and the associated payment (e.g., user shopping on merchant's website). However, the present invention at least further handles a commercial provider that trade goods and/or services

ancillary to the trade of the merchant 17 to the customers 21 of the merchant 17 through the use of the merchant's payment system (e.g., EFT terminals 19).

Accordingly, Applicant submits that O'Leary fails to disclose or teach the invention of claim 1 as a whole and the anticipation rejection to claim 1 should be withdrawn. Similarly, the anticipation rejection to any of the remaining claims should be withdrawn.

The present invention overcomes the problems associated with the prior art, such as O'Leary, whereby it is a problematic task to include additional parties to the payment structure and thus limits the ability of merchants 17 to offer third-party ancillary goods and services to their customers through, e.g., their EFT or EFTPOS terminals. Accordingly, the present invention provides a system and method enabling merchants to provide third-party ancillary goods and services from commercial providers to their customers using their existing payment infrastructure and handles the associated payments, including commission (see page 2, line 26 to page 3, line 6 of the present specification).

For at least the foregoing reasons, Applicant requests that the rejection of claims 1, 4-6, 11, 12, and 14 under 35 U.S.C. § 102(e) be withdrawn.

### ***Claim Rejections — 35 U.S.C. § 103***

Concerning items 13-15 of the Office Action, claim 2 was rejected under 35 U.S.C. § 103(a) as being unpatentable over O'Leary in view of Applicant's Admitted Prior Art (AAPA) and claims 3, 7-10, and 13 were rejected as being obvious over O'Leary in view of the Office Action's Official Notice that "drawing on an electronic bank account of a merchant to pay for the good or service of the commercial provider purchased by the customer is old and well known."

Applicant respectfully traverses the rejections and requests reconsideration, as without acceding to the presence, sufficiency, or propriety of any motivation adduced for the rejection, neither the AAPA nor Official Notice make up for the deficiencies of O'Leary in arriving at

independent claims 1 and 4. Applicant submits that it would not have been obvious for a person skilled in the art to arrive at claims 1 and 4 in view of O'Leary, AAPA and Official Notice. Accordingly, the rejection of claims 2, 3, 7-10, and 13 under 35 U.S.C. § 103(a) should be withdrawn.

### ***Conclusion***

For the foregoing reasons, Applicant submits that all of the claims under consideration in the subject application are in condition for allowance.

A timely Notice of Allowance for the application is therefore earnestly solicited. Should any questions exist, the Examiner is invited to call or email the undersigned.

Authorization is hereby given to charge our deposit account no. 50-1133 for any fees required for prosecution of the subject application, including those for a Petition for Extension of Time (3-months) under 37 CFR § 1.136.

Respectfully submitted,

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